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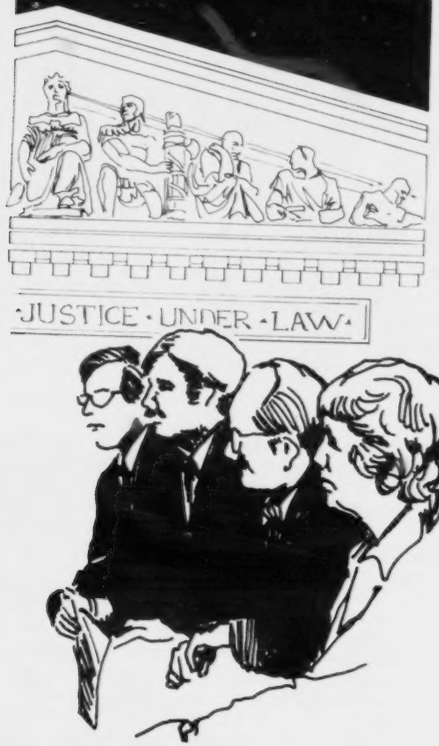
Citizen's Role in the Courts



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National Institute of Justice
Henry S. Dogin
Acting Director

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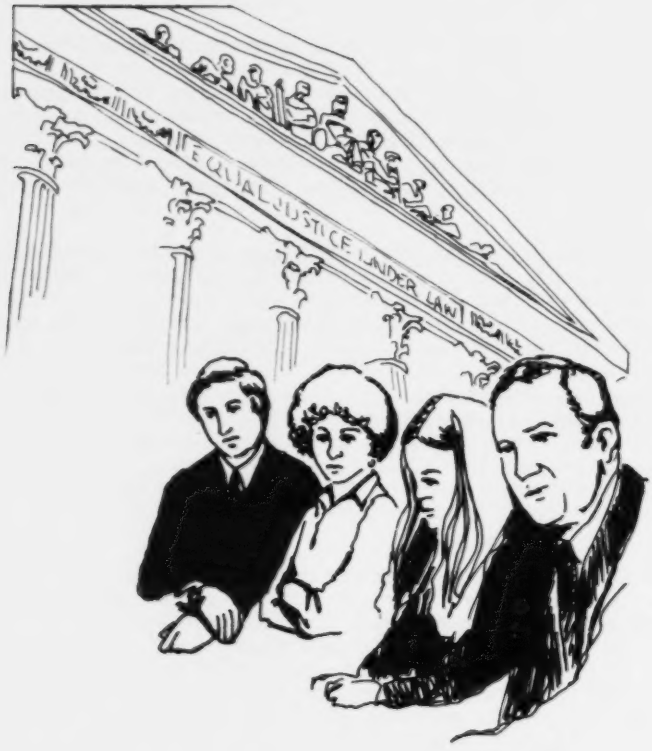

Citizen's Role in the Courts

Your chances of participating in the judicial system are greater than ever before. The growing number of cases brought before courts and judicial reforms combine to increase citizen involvement.

Unfamiliar with court proceedings, many people have misconceptions and apprehensions, and are confused about the citizen's role in the courts. As a witness, a complainant, or a juror, your role in the courts is vital. This pamphlet explains what to expect on "your day in court."

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The Judicial System: How It Works

If you are the victim or witness of a criminal act, your involvement with the justice system begins when you enter a written or oral complaint, under oath, before a judicial officer. If the evidence is sufficient to indicate that a crime has been committed, a charging document is issued to bring the accused person before the court. (See glossary, Probable Cause.)

Next, the case is presented to the court by the prosecutor, who acts on behalf of the governmental authority. The accused person--called the "defendant"--is represented by defense counsel. Witnesses testify on each side. In a criminal case, the person who makes the complaint is called the complaining witness or complainant. All others who testify are witnesses. In a criminal trial, the defendant is not required to testify, and failure to do so cannot be used against the accused in any way. This is called the "privilege against self-incrimination," the focus of much legal and popular attention.

Not all proceedings are designed to determine guilt as in a criminal case. In civil litigations, disputes between private parties are brought before the court to determine fault or decide controversies. Terms used in criminal proceedings often differ from those in civil actions, as you can see in the glossary of court-related terms at the end of this brochure.

The following suggestions are designed to make your participation in the justice system a more satisfying and constructive experience.

Suggestions for Witnesses

- Review the case in your mind a day or two before your court date.
- Before testifying, try to visualize the incident. This will help you recall details you may have forgotten. You can refresh your memory by making notes, but don't memorize material or your testimony might appear "staged."

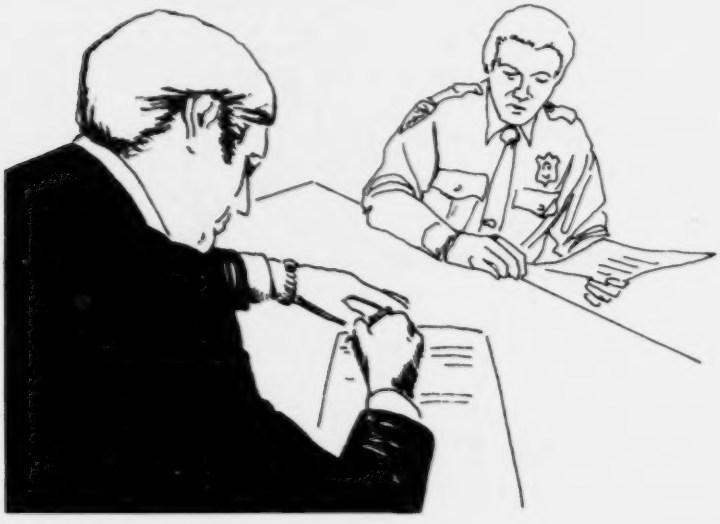
- Think before speaking. Be sure you fully understand each question put to you. If not, ask that it be repeated or explained.
- Never forget you are under oath.
- Always tell the truth. Do not exaggerate.
- Don't lose your temper. Many attorneys rigorously cross-examine witnesses to try to discredit them. Maintain your composure--your testimony will be of far greater value.
- Courts are interested only in facts. Do not draw conclusions or state opinions unless asked.
- Testify in an objective manner. Do not attempt to advocate the position taken by either side.
- Speak loudly and clearly. This enables everyone to hear your testimony and increases a judge's or juror's confidence in your testimony.

Suggestions for Crime Victims

- If you discover you've been victimized, call the police as soon as possible. Reporting a crime within 2 minutes increases the chance of an arrest by nearly 10 percent. Even if time has elapsed between the commission of a crime and your discovery of it, you should call the police as soon as possible. The police are best able to determine what to do.

- Should you press charges? Only you can answer this question. Although cooperating with the prosecutor may cause you some personal inconvenience, remember that justice does not simply happen--it is achieved through mutual cooperation and hard work.

- If you decide to press charges, you will be asked to put your complaint in writing. In some cases you may be given guidance in writing your complaint. If not, a general rule of thumb is to answer the questions who, what, where, and when. Include only relevant information. Your response to the "what" question should be especially clear, since it is primarily this information that will determine probable cause.



- If probable cause is found, you will be summoned to testify in court. If you can't appear in court on the scheduled day, contact the court or prosecutor to see if the case can be continued. Failure to appear in court at the appointed time may result in a bench warrant (see glossary) for your arrest.
- Find out if your state offers restitution or victim compensation programs. If so, you may be able to defray any property damage, medical costs, or other damage you have incurred. If not, you can bring a civil action against the accused to collect damages. However, most persons convicted of a crime are often "judgment proof," which means they do not have enough money to pay damages arising from a civil judgment.
- When testifying in court, follow the suggestions for witnesses.

Suggestions for Jurors

- When you are notified to report for jury duty, follow the instructions carefully. If you can't be at the court at the time specified, contact the jury commissioner, who should be able to advise you if you may postpone your jury duty or be excused. Some jurisdictions provide transportation and child care services to those who need them.
- The length of time jurors serve varies widely. Although a 20-30 day stint is not unusual, some areas are experimenting with a 1-day system. Check with the jury commissioner to find out how long you will be expected to serve.
- Even if you are called for jury duty, you may not actually hear a case. Prospective jurors are carefully screened (see glossary, Peremptory Challenges). If you are not selected to serve, don't interpret that as a reflection of your personal qualifications. The attorneys for both sides try to select jurors they believe will favor their side or be impartial.
- Be alert and listen carefully to everything taking place in the courtroom. In some areas jurors are allowed to take notes, in others they are not. The jury commissioner will advise you if you may take notes.

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- If selected as a juror, avoid talking about the case with anyone, including fellow jurors, until you are instructed by the judge to reach a verdict. Discussing the case, listening to the radio, or reading news stories of the trial could result in a mistrial or miscarriage of justice. You also might be held in contempt of court (see glossary).

- When considering a case, base your decision solely on evidence presented in court. You should not be influenced by evidence declared inadmissible or stricken from the record. Similarly, opening and closing statements made by the attorneys are not evidence and should be considered only in the light instructed by the court.

- Keep an open mind until you have heard or seen all evidence.

- You will be paid for your service as a juror. Although the fee is often small, you may be able to make some arrangement with your employer to minimize the financial hardship.

A Glossary of Court-Related Terms

Acquittal. A judgment of a court, based either on the verdict of a jury or judicial officer, stating that the defendant is not guilty of the offense(s) for which he/she has been tried.

Appeal. An application to a higher court to correct or modify the judgment of a lower court.

Arraignment. The first appearance before the court of a person charged with a crime where he/she is advised of all pending charges, is asked to plead guilty or not guilty to the charges, and is advised of the right to counsel and of the right to trial by jury. This procedure is usually reserved for felony cases.

Bail. Cash or surety bond deposited with the court to insure the appearance in court of a released defendant. A defendant who posts bail is allowed to remain free pending trial.

Bench Warrant. An order from a judge to arrest a person who failed to obey a court order to appear. Can be issued for defendants who fail to appear for trial and for witnesses who fail to appear after having been subpoenaed to appear and testify.

Contempt of Court. Any willful act intended to embarrass, hinder, or obstruct the court in the administration of justice, or calculated to diminish the court's authority or dignity.

Defendant. A person against whom charges are brought in civil or criminal actions.

Deposition. A sworn statement of a party or witness taken outside the court, after notice is given to the opposing side, which provides information or evidence to a court.

Disposition. The final outcome of a case.

Evidence. All the means of proving or disproving alleged facts. There are basically two types of evidence:
(1) Direct evidence, by which facts are proved by witnesses who saw an act done or heard word(s) spoken.

(2) Circumstantial evidence, by which facts are inferred or deduced.

Felony. A term used for a serious crime for which the accused, if convicted, will generally receive a prison term or possibly a death penalty.

Grand Jury. A group of persons selected to investigate criminal activity by secretly hearing evidence against an accused person to determine whether sufficient evidence exists to bring that person to trial.

Indictment. A written complaint, issued by a grand jury, stating that a person has committed a felony.

Indigent. Any person whose financial resources are insufficient (as defined by court rule or law) to obtain legal counsel or pay court fees.

Misdemeanor. Offenses less serious than felonies and generally punishable by fine or by imprisonment in an institution other than a penitentiary.

Objection. Opposition by a prosecutor or defense counsel to a specific question, line of questioning, or evidence presented.

Overrule. A judge's decision to set aside the authority of a former decision or reject a motion or objection made by a prosecutor or legal counsel.

Parole. A conditional release of an offender from confinement prior to sentence expiration.

Perjury. A false statement made under oath.

Petit Jury. A group of persons selected to determine certain matters of fact in a criminal action and to render a verdict of guilty or not guilty. In civil actions they reach verdicts for or against parties involved and decide whether to award monetary damages.

Plaintiff. A person who initiates a lawsuit in a civil action. There is no person named as plaintiff in a criminal case because these cases are brought in the name of the State.

Plea Bargaining. The exchange of prosecutorial concessions--usually a lesser charge, the dismissal

of other charges, a prosecutorial recommendation for reduced sentence, or a combination of these--in return for a plea of guilty.

Peremptory Challenge. The right of both prosecution and defense counsel in a jury trial to object to accepting a prospective juror without giving any reason for such objection. The number of challenges are always limited by statute or rule of court.

Preliminary Hearing. Court proceeding for felonious crimes to determine if enough evidence (probable cause) exists to present to a grand jury.

Probable Cause. Facts or circumstances which will induce a reasonable person to believe that an accused person has committed a crime.

Probation. Allowing a person found guilty of criminal conduct to remain at large, during good behavior, under certain conditions imposed by the court. Probation may be either supervised by a probation officer or unsupervised, depending on the order of court.

Prosecutor. An attorney employed by a government agency to initiate and maintain criminal proceedings on behalf of the government against persons accused of committing criminal offenses. Also commonly called a District Attorney (D.A.), State's Attorney, United States' Attorney, or County Attorney.

Public Defender. An attorney appointed by the court or governmental body to provide legal counsel to indigent defendents in criminal proceedings.

Subpoena. A written order requiring a person to appear in court to testify as a witness. The order may require the person to bring specified material to court at the time of the trial.

Sustain. To support an objection made by a prosecutor or defense counsel.

Voir Dire. A preliminary examination in a court proceeding to determine if a prospective juror is qualified to sit on a jury panel and, in some cases, to determine the competence of a witness or the admissibility of evidence.

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